



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 18 2015

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5952 6767

The Honorable Joseph M. DeStefano
Mayor of Middletown
16 James Street
Middletown, New York 10940-3169

**RE: Request for Information ("RFI") Pursuant to Section 308 of the Clean Water Act
City of Middletown Municipal Separate Storm Sewer System ("MS4") (NYR20A271)
Docket No. CWA-IR-15-018**

Dear Mayor DeStefano:

The United States Environmental Protection Agency ("EPA") is charged with the protection of human health and the environment under the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1251 *et seq.* Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person/agency is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, the EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, the EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

The City is hereby required, pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), to submit to the EPA the following no later than **sixty (60) calendar** days of receipt of this RFI:

1. Documentation, with accompanying photographs, of any **additional** measures taken to address each of the Potential Violations and Areas of Concern specified in the enclosed Audit Report beyond what has already been submitted to EPA as summarized in Attachment A of the Audit Report; and
2. A revised and up-to-date Stormwater Management Program ("SWMP") Plan.

All information required to be submitted by this Request for Information shall be sent by certified mail or its equivalent to the following address:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
290 Broadway, 20th Floor
New York, NY 10007-1866

Any documents to be submitted by the City shall be signed by an authorized representative of the respective entity (see 40 C.F.R. § 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitted false information, including the possibility of fine and imprisonment for knowing violations."

Failure to provide the required information may subject the facility to civil/criminal penalties pursuant to Section 309 of the CWA. Failure to comply with the RFI shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

Enclosed is a copy of the audit report detailing the EPA's findings from its October 21, 2014 to October 23, 2014 Audit of the City of Middletown MS4.

If you have any questions regarding this Request for Information or the enclosed Audit Report, please feel free to contact Christy Arvizu of my staff via phone at (212) 637-3961 or via email at arvizu.christy@epa.gov.

Sincerely,



Douglas McKenna, Chief
Water Compliance Branch

Enclosures

cc: Joseph DiMura, P.E, Director, Bureau of Water Compliance Programs, NYSDEC
Jacob S. Tawil, P.E., Commissioner of Public Works, City of Middletown (electronic)
Shohreh Karimipour, Regional Water Engineer, NYSDEC, Region 3
Natalie Browne, NYSDEC, Region 3 (electronic)

Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction Code		NPDES										yr/mo/day						Inspection Type		Inspector		Fac Type							
1		2	5	3	N	Y	R	2	0	A	2	7	1	11	12	1	4	1	0	2	3	17	18	>	19	R	20	1	
Remarks																													
21																													
66																													
Inspection Work Days				Facility Self-Monitoring Evaluation Rating										BI		QA		-----Reserved-----											
67				69				70			71			72			73			74			75						80

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) City of Middletown 16 James Street Middletown, NY 10940-3169	Entry Time/Date 0830; 10/21/2014	Permit Effective Date 5/1/2010
	Exit Time/Date 1135; 10/23/2014	Permit Expiration Date 4/30/2015
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) Jacob Tawil, Commissioner of Public Works (845)343-3169 Doug Hendrickson, Deputy Commissioner of Public Works (845)343-3169 Michael Moser, Deputy Commissioner of Public Works (845)343-3169 Walter Welch, Building Inspector (845)343-4124 Kate Zahorchak, Keyboard Specialist (845)343-3169 Gef Chumard, Principal Associate, Clark Patterson Lee (800)274-9000, ext 2106 Christopher Gross, Civil Engineer, Clark Patterson Lee (800)274-9000, ext 3103	Other Facility Data (e.g., SIC NAICS, and other descriptive information)	
Name, Address of Responsible Official/Title/Phone and Fax Number Mayor Joseph M. DeStefano (845)346-4100	Contacted <input checked="checked" type="checkbox"/> Yes <input type="checkbox"/> No	



Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

	Permit		Self-Monitoring Program		Pretreatment	<input checked="" type="checkbox"/>	MS4
<input checked="" type="checkbox"/>	Records/Reports		Compliance Schedules		Pollution Prevention		
<input checked="" type="checkbox"/>	Facility Site Review		Laboratory		Storm Water		
	Effluent/Receiving Waters		Operations & Maintenance		Combined Sewer Overflow		
	Flow Measurement		Sludge Handling/Disposal		Sanitary Sewer Overflow		

Section D: Summary of Findings/Comments

(Attach additional sheets of narrative and checklists, including Single Event Violation codes, as necessary)

SEV Codes	SEV Description
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	See attached MS4 audit report for findings
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

Name(s) and Signature(s) of Inspector(s) Christy Arvizu 	Agency/Office/Phone and Fax Numbers (212) 637-3961	Date 2/12/2015
Signature of Management Q A Reviewer 	Agency/Office/Phone and Fax Numbers	Date 2/18/15

INSTRUCTIONS

Section A: National Data System Coding (i.e., PCS)

Column 1: Transaction Code: Use N, C, or D for New, Change, or Delete. All inspections will be *new* unless there is an error in the data entered.

Columns 3-11: NPDES Permit No. Enter the facility's NPDES permit number - third character in permit number indicates permit type for U=unpermitted, G=general permit, etc.. (Use the Remarks columns to record the State permit number, if necessary.)

Columns 12-17: Inspection Date. Insert the date entry was made into the facility. Use the year/month/day format (e.g., 04/10/01 = October 01, 2004).

Column 18: Inspection Type*. Use one of the codes listed below to describe the type of inspection:

A Performance Audit	U IU Inspection with Pretreatment Audit	! Pretreatment Compliance (Oversight)
B Compliance Biomonitoring	X Toxics Inspection	@ Follow-up (enforcement)
C Compliance Evaluation (non-sampling)	Z Sludge - Biosolids	{ Storm Water-Construction-Sampling
D Diagnostic	# Combined Sewer Overflow-Sampling	} Storm Water-Construction-Non-Sampling
F Pretreatment (Follow-up)	\$ Combined Sewer Overflow-Non-Sampling	: Storm Water-Non-Construction-Sampling
G Pretreatment (Audit)	+ Sanitary Sewer Overflow-Sampling	~ Storm Water-Non-Construction-Non-Sampling
I Industrial User (IU) Inspection	& Sanitary Sewer Overflow-Non-Sampling	< Storm Water-MS4-Sampling
J Complaints	\ CAFO-Sampling	- Storm Water-MS4-Non-Sampling
M Multimedia	= CAFO-Non-Sampling	> Storm Water-MS4-Audit
N Spill	2 IU Sampling Inspection	
O Compliance Evaluation (Oversight)	3 IU Non-Sampling Inspection	
P Pretreatment Compliance Inspection	4 IU Toxics Inspection	
R Reconnaissance	5 IU Sampling Inspection with Pretreatment	
S Compliance Sampling	6 IU Non-Sampling Inspection with Pretreatment	
	7 IU Toxics with Pretreatment	

Column 19: Inspector Code. Use one of the codes listed below to describe the *lead agency* in the inspection.

A — State (Contractor)	O — Other Inspectors, Federal/EPA (Specify in Remarks columns)
B ---- EPA (Contractor)	P — Other Inspectors, State (Specify in Remarks columns)
E — Corps of Engineers	R — EPA Regional Inspector
J — Joint EPA/State Inspectors—EPA Lead	S — State Inspector
L ---- Local Health Department (State)	T — Joint State/EPA Inspectors—State lead
N — NEIC Inspectors	

Column 20: Facility Type. Use one of the codes below to describe the facility.

- 1 — Municipal. Publicly Owned Treatment Works (POTWs) with 1987 Standard Industrial Code (SIC) 4952.
- 2 — Industrial. Other than municipal, agricultural, and Federal facilities.
- 3 — Agricultural. Facilities classified with 1987 SIC 0111 to 0971.
- 4 — Federal. Facilities identified as Federal by the EPA Regional Office.
- 5 — Oil & Gas. Facilities classified with 1987 SIC 1311 to 1389.

Columns 21-66: Remarks. These columns are reserved for remarks at the discretion of the Region.

Columns 67-69: Inspection Work Days. Estimate the total work effort (to the nearest 0.1 work day), up to 99.9 days, that were used to complete the inspection and submit a QA reviewed report of findings. This estimate includes the accumulative effort of all participating inspectors; any effort for laboratory analyses, testing, and remote sensing; and the billed payroll time for travel and pre and post inspection preparation. This estimate does not require detailed documentation.

Column 70: Facility Evaluation Rating. Use information gathered during the inspection (regardless of inspection type) to evaluate the quality of the facility self-monitoring program. Grade the program using a scale of 1 to 5 with a score of 5 being used for very reliable self-monitoring programs, 3 being satisfactory, and 1 being used for very unreliable programs.

Column 71: Biomonitoring Information. Enter D for static testing. Enter F for flow through testing. Enter N for no biomonitoring.

Column 72: Quality Assurance Data Inspection. Enter Q if the inspection was conducted as followup on quality assurance sample results. Enter N otherwise.

Columns 73-80: These columns are reserved for regionally defined information.

Section B: Facility Data

This section is self-explanatory except for "Other Facility Data," which may include new information not in the permit or PCS (e.g., new outfalls, names of receiving waters, new ownership, other updates to the record, SIC/NAICS Codes, Latitude/Longitude).

Section C: Areas Evaluated During Inspection

Check only those areas evaluated by marking the appropriate box. Use Section D and additional sheets as necessary. Support the findings, as necessary, in a brief narrative report. Use the headings given on the report form (e.g., Permit, Records/Reports) when discussing the areas evaluated during the inspection.

Section D: Summary of Findings/Comments

Briefly summarize the inspection findings. This summary should abstract the pertinent inspection findings, not replace the narrative report. Reference a list of attachments, such as completed checklists taken from the NPDES Compliance Inspection Manuals and pretreatment guidance documents, including effluent data when sampling has been done. Use extra sheets as necessary.

*Footnote: In addition to the inspection types listed above under column 18, a state may continue to use the following wet weather and CAFO inspection types until the state is brought into ICIS-NPDES: K: CAFO, V: SSO, Y: CSO, W: Storm Water 9: MS4. States may also use the new wet weather, CAFO and MS4 inspections types shown in column 18 of this form. The EPA regions are required to use the new wet weather, CAFO, and MS4 inspection types for inspections with an inspection date (DTIN) on or after July 1, 2005.

**Municipal Separate Storm Sewer System (MS4) Audit
City of Middletown (NYR20A271)
October 21, 2014 through October 23, 2014**

Prepared by:

**United States Environmental Protection Agency - Region 2
290 Broadway
New York, New York 10007**

**City of Middletown MS4 Audit
October 21, 2014 – October 23, 2014**

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City of Middletown MS4 Audit
October 21, 2014 – October 23, 2014

1. INTRODUCTION

On October 21, 2014 through October 23, 2014, the United States Environmental Protection Agency (EPA), Region 2, conducted a program evaluation, or Audit, of the City of Middletown's (City or Middletown) Municipal Separate Storm Sewer System (MS4). EPA is granted the authority to conduct the Audit through 40 C.F.R. 122.41(i). Ms. Christy Arvizu of EPA Region 2 conducted the Audit. Upon arrival and prior to conducting the audit, Ms. Arvizu presented credentials to representatives from the City of Middletown. The primary representatives involved in the Audit were the following:

City of Middletown Representatives:	<ul style="list-style-type: none">• Jacob Tawil, Commissioner of Public Works (845) 343-3169• Doug Hendrickson, Deputy Commissioner of the Department of Public Works (845) 343-3169• Michael Moser, Deputy Commissioner of the Department of Public Works (845) 343-3169• Walter C. Welch, Building Inspector (845) 343-4124• Kate Zahorchak, Keyboard Specialist (845) 343-3169
City of Middletown Consulting Engineers (Clark Patterson Lee)	<ul style="list-style-type: none">• Gef Chumard, Principal Associate (Semi-retired) (800) 274-9000, ext. 2106• Christopher Gross, Civil Engineer (800) 274-9000, ext. 3103
NYSDEC Region 3 Representative:	<ul style="list-style-type: none">• Natalie Browne, Environmental Program Specialist (914) 428-2505, ext. 354
EPA Region 2 Representatives:	<ul style="list-style-type: none">• Christy Arvizu, Environmental Scientist (212) 637-3961• Kimberly McEathron, Physical Scientist (212) 637-4228

The purpose of the Audit was to determine the City's compliance with the terms of its State Pollutant Discharge Elimination System (SPDES) MS4 Permit and to evaluate the current implementation status of the City's stormwater management program. Prior to, during, and after the Audit, EPA Region 2 reviewed program materials received from the City (see **Attachment A**). For this Audit, EPA Region 2 evaluated specific aspects of the following Minimum Control Measures (MCMs): Public Education and Outreach, Public Involvement and Participation, Illicit Discharge Detection and Elimination, Construction Site Stormwater Runoff Control, Post-Construction Stormwater Management, and Pollution Prevention and Good Housekeeping for Municipal Operations. EPA Region 2's Audit included interviews with staff, review of documentation and in-field verification of program implementation.

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October 21, 2014 – October 23, 2014

2. HISTORY & BACKGROUND

The State of New York is the delegated permitting and enforcement authority for the National Pollutant Discharge Elimination System (NPDES) or State Pollutant Discharge Elimination System (SPDES) program. The New York State Department of Environmental Conservation (NYSDEC) is the delegated agency that implements the SPDES program and as such, issued a SPDES General Permit for Storm Water Discharges from MS4s (GP-0-10-002) (MS4 General Permit or Permit), which became effective on May 1, 2010 and expires on April 30, 2015.

The City of Middletown submitted a Notice of Intent (NOI) with an initial Stormwater Management Program (SWMP) Plan on March 3, 2003 to NYSDEC and subsequently, received Permit coverage under the MS4 General Permit (GP-02-02) (NYR20A071), which became effective on January 8, 2003 and expired on January 8, 2008. NYSDEC issued the City of Middletown an Acknowledgement of Notice of Intent on March 28, 2003. Permit coverage remained in full force and effect and was automatically carried over upon the reissuance of MS4 General Permit (GP-08-002), which became effective on May 1, 2008 and expired on April 30, 2010. Upon expiration, permit coverage was automatically carried over to the current permit, MS4 General Permit GP-0-10-002, which became effective on May 1, 2010 and expires on April 30, 2015.

The City of Middletown is located in Orange County, has a population of approximately 28,086 and consists of 5.08 square miles. The City's MS4 outfalls discharge stormwater to the waterbodies outlined in Table 1.

Table 1

Monhagen Brook	Draper Brook	Silver Lake
Brick Pond	Davidge Pond	

3. AUDIT FINDINGS

Program Components

According to Mr. Tawil who is the Commissioner of Public Works, he is the stormwater program contact for the City of Middletown. Mr. Tawil stated that the Department of Public Works has the lead role in implementing and enforcing the Stormwater Management Program Plan.

Stormwater Management Program (SWMP) Plan & Coordination

Prior to the Audit, the City provided EPA with the City's SWMP Plan which was updated in July 2014. Prior to the July 2014 update, Mr. Tawil and Mr. Chumard stated that the SWMP Plan had been revised in 2009 when it had been updated from the City's initial SWMP plan which had been submitted with its NOI in March 2003. Changes to the SWMP Plans were not documented, but Mr. Chumard stated that they could compare the plans to the previous version to see what was changed. Mr. Tawil stated that the SWMP was updated in July 2014 to clarify street sweeping changes. Mr. Chumard further stated that other changes included updating names of relevant personnel and formatting.

Interviews with City staff indicated that the City's consulting engineer, Clark Patterson Lee (CPL) assists the City with several stormwater management program implementation functions such as mapping, outfall verification and Annual Report preparation. At the time of the Audit, the City did not have a third party

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certification from CPL. Subsequent to the Audit, the City forwarded a copy of a signed and executed contracted entity certification which outlined the duties that CPL will provide to the City (see **Appendix A**). Specifically, the certification states that CPL will provide the following services:

1. Assistance to the City in preparation and updating the SWMP;
2. Assistance to the City in preparation of the Annual Report;
3. Assistance to the City in preparation of Stormwater Pollution Prevention Plans (SWPPPs) in conjunction with projects undertaken by CPL for the City; and
4. Assistance to the City in the review of SWPPPs prepared by Planning Board applicants.

As stated in the City's SWMP and verified by Mr. Tawil, copies of the City's SWMP Plan are available for review at the DPW offices at 16 James Street.

Public Education and Outreach

At the time of the audit, the City's SWMP Plan identified the Monhagen Brook as a waterbody of concern. The SWMP Plan did not specifically identify Pollutants of Concern (POCs), or Geographic Areas of Concern (GOCs). However, Mr. Tawil stated that the City targets construction sites as sediment is a pollutant of concern from construction activities. Yet, the City's SWMP Plan at the time of the Audit did not specifically identify sediment as a POC.

Prior to the Audit, the City forwarded a copy of the Priority Waterbodies List (PWL) for the Monhagen Brook and its tributaries. The PWL stated that the Monhagen Brook is impaired along the entire segment (25.9 miles) for phosphorus and a known source of pollutants is attributed to urban / storm runoff. During the Audit, EPA and the City discussed the City's best management practices for public education and outreach. Specifically, the City provides outreach to its citizens via its local cable channel (Channel 23), a brochure display area at City Hall, cooperative efforts with the Orange County Soil and Water Conservation District (OC SWCD) and a City website where it posts stormwater resources. The City provided documentation of its brochure display by providing photographs taken of the display over different periods of time.

Mr. Tawil stated that the public and business are informed of the hazards associated with illegal discharges and improper disposal of wastes through the City's public outreach campaign. In addition, the City invites the OC SWCD to provide seminars and makes brochures available for the public at its offices.

Public Involvement and Participation

During the Audit, EPA and the City discussed the City's Public Involvement and Participation MCM component of its SWMP Plan. Specifically, the SWMP Plan stated that the MCM consisted of a set of best management practices (BMPs) that are focused on getting members of the local community involved in the MS4's municipal stormwater management program. The BMPs include a number of practices designed to seek public input on the SWMP and Annual Report accomplishments, in addition to describing specific activities that encourage public participation. The SWMP Plan also identified target audiences as key individuals and groups that may have an interest in the particular BMPs as well as the general public located within the permitted boundary. Mr. Tawil stated that specific BMPs included City Pride Clean-up activities with the local Rotary Club and school children, stormwater items on public meeting agendas, and outreach on the local cable channel.

When asked if the City provided an opportunity for the public to participate in the development, implementation, review and revision of the City's SWMP Plan, Mr. Tawil stated that the public was not

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involved in the most recent revision and he was not aware of any stakeholders with any specific interest in the City's SWMP Plan.

Annual Report

According to Mr. Tawil and Mr. Chumard, the City and its consulting engineers (CPL) gather information for the reporting year in March. CPL then compiles the data into the annual report. Once the report is completed, it is then presented to the City's Common Council. Mr. Tawil stated that the Annual Report is not formally available for public comment, but he does state during Common Council meetings that the City has prepared its MS4 Annual Report which will be submitted to NYSDEC. The Common Council meetings are accessible to the public via the City's local cable channel. Subsequent to submittal to NYSDEC, Mr. Tawil stated the Annual Report is posted to the City's website for public comment.

Illicit Discharge, Detection and Elimination (IDDE)

The City of Middletown utilizes hard copy maps which show outfalls, including underground outfalls which discharge to the Monhagen Brook. The mapping was conducted by the City's consulting engineers, Clark Patterson Lee, and field verified with geographical coordinates or "GPS" locations in 2013 by City staff. During the Audit, it was unclear how many outfalls there were in the City as there were different numbers reported (see Table 2). Subsequent to the Audit, the City forwarded a letter which stated that the correct number of outfalls was 196 and that the City would report this number in its upcoming Annual Report as to be consistent with the outfall map. Mr. Tawil stated that while maps are only available in hard copy, the City is working on digitizing maps for the Water & Sewer Department.

Table 2

Source	Number of outfalls
Outfall Map (2007)	137
Annual Report (2013)	200
Audit discussion (137 outfalls from 2007 map plus 55 underground outfalls not counted on map)	192

The City also provided a copy of its preliminary storm sewershed map which was developed as part of its overall watershed planning efforts. The map was developed in March 2011.

Prior to the Audit, the City provided a copy of its Sewers ordinance (Chapter 389) which was adopted in 1953. During the Audit, the City reiterated that the aforementioned ordinance was the illicit discharge ordinance required by the Permit. However, Mr. Tawil stated that he would look into it further and get back to EPA after the Audit. On October 24, 2014, Mr. Tawil sent an e-mail to EPA stating that § 389-3 of the City's sewer ordinance is what the City has used to enforce prohibiting illicit discharges into its MS4. In that same e-mail, Mr. Tawil stated that he would be checking with the City's attorneys to see if there were other sections of the City code that were being used for illicit discharge. He further stated the City started looking for the NYSDEC model law to see if the City could use or adopt it, but that it was the City's belief that the current Sewer ordinance had enough strength to prohibit illicit discharges and prosecute the offenders. On November 26, 2014, EPA sent Mr. Tawil an e-mail acknowledging receipt of his October 24, 2014 e-mail and reiterated the NYSDEC MS4 Permit requirement at Part VII.A.3.f which states that "all covered entities must prohibit,

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through a law, ordinance, or other regulatory mechanism, illicit discharges into the small MS4... The mechanism must be certified by the attorney representing the small MS4 as being equivalent to the State's model illicit discharge local law." Since Mr. Tawil stated that the City was utilizing its Sewer ordinance to enforce against illicit discharges, EPA requested a copy of the City's attorney certification as required by the Permit. On November 26, 2014, in response to EPA's e-mail, Mr. Tawil informed EPA that the City had recently introduced the NYSDEC model local law to the Common Council and would be adopted at an upcoming Council meeting. EPA received a copy of the adopted local law and attorney certification on January 16, 2015. Please refer to **Appendix B** for e-mails documenting City and EPA communications.

Mr. Moser stated that the City has an "Illicit Discharge Detection and Elimination Plan" which is approximately 6 years old. The plan identifies the City's priority areas (commercial / industrial areas, older sections of town and areas of complaints). In addition, the plan outlines steps employees should take when tracing sources of illicit discharges and removing sources of illicit discharges. In addition, the plan includes evaluation steps which state that outfalls are checked for pollutants by City staff, staff use video recording cameras to inspect storm and sanitary sewers and all complaints are investigated in a timely manner and noted with solutions as needed. In addition to the aforementioned plan, Mr. Moser provided EPA with a copy of the City's "Dry Weather Screening Checklist / SOP" which summarizes items that inspectors should be aware of prior to, during, and after inspections. The City also utilizes an "Outfall Monitoring Observation Sheet" to record observations of outfall inspections.

Mr. Moser stated that the City does inspections of 100% of its outfalls in both wet and dry weather (no rain for 3 days) every 6 months.

During the Audit, the City provided documentation of illicit discharge investigations, including photographs, and documentation of actions taken to follow-up. To date, there has only been one instance where a Notice of Violation (NOV) was issued for a sewer lateral leak (2012). The City also reports instances of non-compliance to NYSDEC via the Sewage Right to Know Act.

Mr. Moser stated that implementation of the City's IDDE program was primarily done by City staff (7 total). Mr. Tawil stated that CPL was available for mapping or if additional investigation was needed.

During the Audit, it was not clear if there was a formal training program for staff, especially those who report to Deputy Commissioners and the Commissioner of Public Works. The City's SWMP Plan states that employees are trained in IDDE and attend seminars and trainings for IDDE. However, it was unclear from the training documentation provided which staff had attended IDDE training other than Mr. Tawil and Mr. Moser. Mr. Tawil stated that the procedure is for staff to call the Deputy Commissioner (Mr. Moser) who will then do an investigation. Mr. Moser stated that if something is found, he documents his investigation and maintains a record of the investigation. While the City's SWMP Plan does not specifically identify the City's training program, the City documents and retains a list of all training requested / taken by its staff.

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Construction Site Stormwater Runoff Control & Post Construction Stormwater Management

At the time of the Audit, the City identified three construction sites greater than one acre in the City's jurisdiction as being active (see Table 3).

Table 3

Sterling Parc	High Rose Ridge
Sunrise Hills	

The City also identified an additional construction site as being active (Monhagen Drainageway), but it was less than one acre. At the time of the Audit, the site was approximately 95% complete as it was waiting on bank stabilization.

The City retains an inventory in an electronic database (MuniCity) which tracks building permits issued to sites. Sites are identified by address and information entered into MuniCity include permits, inspections, violations, and status of the site. Mr. Tawil stated the City has been using MuniCity since 2005. Subsequent to the Audit, the City forwarded an updated construction site inventory that it is using to track all sites within the City. The inventory includes the following fields outlined in Table 4.

Table 4

Site Name	Project Status	NOIs on file	Date of last post-construction inspection
Location / Address	Final Stabilization Date Approved	NOI dates	Post-construction maintenance dates
Total Acres	SPDES #	NOI acknowledgement letter on file	
Acres of Disturbance	SWPPPs on file	Notice of Terminations (NOTs) on file	
Proposed land use	SWPPP reports	Contact names	

While the City's SWMP Plan does not describe the City's SWPPP review process, Mr. Tawil explained that SWPPPs are reviewed by licensed professional engineers at the City's consulting engineers (CPL) and are then reviewed by him before they are presented to the Planning Board. When CPL reviews the SWPPPs, the reviews are done to ensure that they meet the City's local law, NYSDEC stormwater standards, manual and handbook. Mr. Chumard further stated that comments generated as a result of CPL SWPPP review are documented in writing and transmitted to the City Planning Board. The City Planning Board then transmits those comments to the SWPPP preparer. Mr. Tawil stated that when he reviews the SWPPPs after completion of CPL's review and to ensure that they meet the requirements as outlined in the City's local law. After completion of SWPPP review, the SWPPPs are then presented to the Planning Board for approval. Once the Planning Board votes on the SWPPPs, Mr. Tawil then signs off the MS4 SWPPP Acceptance Form after he and the City Clerk sign off on the NOI and maps. Mr. Tawil retains a hard copy and electronic copy of MS4 SWPPP Acceptance forms in

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the respective project files. Project files were made available to EPA for review during the Audit and electronic copies of MS4 SWPPP Acceptance forms were made available to EPA prior to the Audit.

During the Audit, EPA asked the City if they required construction sites to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, pursuant to the requirement of construction permit. Mr. Tawil stated that there isn't a specific requirement, but believed that it would be under the general city code for waste disposal and part of SWPPP requirements in the City's local law for construction stormwater.

The City stated that the public has the opportunity to review and comment on site plans during planning board meetings which are open to public. In addition, the City sends certified mailings to affected population within a certain proximity to planned projects. Mr. Tawil stated that any complaints relating to construction stormwater would be reported to the Department of Public Works as that number is publicized on the City's website, presentations, meetings and its cable television network. Calls are entered into a database for tracking until they are resolved. Procedures for tracking are memorialized in a January 19, 2010 memo from Mr. Tawil stating that "all inspections, violations, and complaints must be logged immediately and all open complaints must be reviewed on a weekly basis to insure proper and timely follow-up, compliance and closure." Mr. Moser also stated that the City tries to respond to complaints the same day that they are received.

The City's SWMP states that "developer's engineers must perform weekly SWPPP inspections, and maintain a file of inspection reports for inspection on demand." In addition, the City's SWMP states that DPW inspectors will visit the site as directed by the Commissioner to check for compliance; maintain records of their inspections, including findings and recommendations. The SWMP also outlines enforcement follow-up that the City can take.

According to Mr. Welch, he conducts frequent inspections at active construction sites and is usually on-site more than once a week. Mr. Welch explained that his inspections consist of walking the job site, documenting the deficiencies on the "SPDES Inspection Form" utilized by the City. There are two forms – a long form and shorter form. The long form consists of information such as the information outlined in Table 5 below.

Table 5

Site Name	Inspector Name, Title	Site Discharge Points	Straw Bale Dikes on Drains	Rock Check Dams
Site Address	Weather	Silt Fence condition	Inlet Sediment Traps	Overall Site
Date	Soil Condition	Sedimentation Trap	Siltation Ponds	
Time	Type of Inspection (e.g. weekly, after storm event)	Construction Entries	Hydroseeding / Seed or Mulch	

In addition, the long form allows for the inspector to add comments on erosion and sediment control practices that need repair or control or erosion and sediment control practices that are not properly installed and not

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functioning. The shorter form consists of much of the same information, but has been condensed and allows for the inspector to add narrative stating what action should be taken.

In addition to walking the site and filling out the inspection forms, Mr. Welch stated that if he sees issues of concern while on the site, he notifies the site manager and writes up the inspection report the same day. He follows-up with the site superintendent the following day to see if the items of concern were addressed and will return to the site to re-inspect and confirm that they were fixed. If items were not fixed, Mr. Welch reports the issue to Mr. Tawil who then has the authority to issue a Stop Work Order (SWO). Paper copies of all inspection reports along with photographs of deficiencies (as appropriate) and corrective actions are kept in binders maintained by Mr. Welch.

Based on the City's Annual Reports, the City has issued 11 NOVs and 3 SWOs. During the Audit, the City clarified that some of the NOVs issued in 2014 were issued to private homeowners for sump pumps discharging onto adjacent properties. The City issued NOVs to those homeowners directing them to move the sump pumps so that the pumps do not drain onto neighboring properties. Other NOVs were issued to construction sites for minor violations. The City also provided EPA with SWO documentation that it had taken in coordination with NYSDEC against High Rose Ridge Development. While the City has an enforcement process in place and documents its actions in MuniCity, its procedures are not documented. As stated previously, the City logs all inspections, violations and actions in its MuniCity database; however, the City is not readily able to separate out stormwater related violations or track individual stormwater related issues in its MuniCity database. Mr. Tawil stated that the City may be able to do so if they work with the software vendor.

While the City's Notice of Termination procedures are not documented in its SWMP Plan, Mr. Tawil stated that in order for sites to file the required NOT form with NYSDEC, the site engineer must request an inspection from the City. The City then does a visual inspection for a project close-up to ensure that the site is stabilized and all practices have been implemented. Mr. Welch and Mr. Moser conduct the close-out inspections, sometimes accompanied by Mr. Hendrickson. Once the inspection has been completed and the site meets the City's requirements, the site owner and site engineer sign off on the NOT prior to Mr. Tawil's review and signature. Mr. Tawil states that a copy of the NOT form is then retained by the City in the physical file as well as in the electronic file. NOT files were made available to EPA for review during the Audit and electronic copies of completed and executed NOT forms were made available to EPA prior to the Audit.

On November 27, 2007, the City adopted Local Law 3 of 2007 (Chapter 414, Stormwater Management; Erosion and Sediment Control) which includes stormwater management and erosion sediment control, SWPPP development, design standards, the maintenance, inspection and repair of stormwater facilities, and includes enforcement and penalties for failing to adhere to the aforementioned requirements. Subsequent to the Audit, Mr. Tawil verified that the City had adopted the March 2006 version of the New York State Stormwater Management and Erosion and Sediment Control model law/ordinance.

At the time of the Audit, City representatives provided EPA with a brief list of post-construction stormwater management practices (3 total) but the list did not identify the type of maintenance needed per the New York State stormwater design manual or SWPPP, nor did it state dates and types of maintenance performed. City

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representatives stated that the City maintains oversight of post-construction management practices as it requires privately held entities to conduct annual inspections of practices and maintain. City representatives further stated that City staff inspect private stormwater management practices to ensure that they are cleaned out properly and maintained. To date, the City has not identified issues.

Subsequent to the Audit, on January 16, 2015, the City forwarded an updated inventory of post-construction stormwater management practices. The inventory included the following:

- a. Tabular listing of green infrastructure practices with type of practice, location, date entered and photos provided.
- b. Tabular listing of retention ponds within City with project site name, # of ponds, and names of ponds
- c. Tabular listing of underground stormwater quality management practices with site name, location, and inspection status

The City's SWMP Plan outlines who is responsible for long-term maintenance and operation of post-construction management practices. Specifically, the City relies on maintenance agreements as private entities are responsible for maintenance of their own stormwater management practices (SMPs). The City's SWMP Plan states that prior to approval of final designs, agreements must be executed between the City and developers for proper operation and maintenance of SMPs. The agreements must obligate developers for proper operation and maintenance of SMPs in the post-construction period and further provide for City DPW personnel to be able to enter for periodic inspection and to maintain, repair and replace SMPs in the event of failure by the developer or his assign to do so. In addition, the agreements should allow for the City to back charge for any costs involved. To date, City representatives could not recall instances where the City maintained any SMPs that were City owned or operated, nor had the City maintained any private SMPs.

City representatives who conduct construction stormwater inspections and post-construction stormwater inspections stated that they have attended NYSDEC sponsored training courses and have taken code enforcement training as Mr. Moser and Mr. Welch are both certified code enforcement inspectors. Prior to the Audit and during the Audit, the City provided a comprehensive listing of all training (inclusive of stormwater specific courses) taken by City staff. As stated previously under the IDDE MCM, while the City's SWMP Plan does not specifically identify the City's formal training program, the City documents and retains a list of all training taken by staff.

The City's SWMP Plan stated that the Orange County SWCD provides training to construction site owners / operators regarding MS4 program requirements. Mr. Tawil confirmed that this occurred and the dates are reported in the Annual Report. When asked how the City ensured that construction site owners and operators received the training prior to starting work and documented verification, Mr. Tawil stated that the City was under the impression that the MS4 SWPPP Acceptance form was the contractor certification that they had taken the training and it was adequate for the City's needs. Mr. Moser and Mr. Welch further stated that they did not ask for certifications, but assumed that those would likely be retained in the job site trailers.

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Pollution Prevention and Good Housekeeping for Municipal Operations

At the time of the Audit, Mr. Tawil stated that there was no formal training program related to employee pollution prevention and good housekeeping for City employees whose responsibilities include stormwater management. However, Mr. Tawil stated that staff receive on-the-job training and explained that staff such as deputy commissioners, foremen, and skilled laborers are examples of staff that would receive training and other staff such as laborers work under the supervision of someone else. Laborers are instructed in what to do and are aware of signage stating what to do and what not to do. The City's 2014 Annual Report stated that the date of the last good housekeeping training was February 26, 2014 and that four trainings were provided during the reporting period. However, there was no documentation provided for those specific training events as reported. Mr. Moser also stated that training was reported in 2010 (Pollution Prevention & Good Housekeeping for Municipal Operations Workshop – Orange County SWCD on 3/26/2010) with 5 staff having attended as indicated on the overall training list provided to EPA prior to the Audit. As stated previously under the IDDE and Construction & Post – Construction MCMs, while the City's SWMP Plan does not specifically identify the City's training program, the City documents and retains a list of all training taken by its staff.

Prior to the Audit, the City forwarded a map identifying all of the municipal or facilities within its jurisdiction. Of the facilities on that map, Mr. Tawil stated that the pollutants of concern would be oils, degreaser fluids and diesel fuel. The City has implemented BMPs such as containment supplies to contain spills and other practices. In addition, all floor drains have been plugged as to eliminate another pathway in the event of a spill. In addition, the City has installed BMPs at its salt storage structure. During the Audit, Mr. Tawil also stated that City staff frequently do self-assessments at municipal operations, they are not formally documented. If incidents are observed, verbal reports may be made as well as incident reports. Subsequent to the Audit on January 16, 2015, the City forwarded EPA a self-assessment checklist that it had created addressing the areas outlined below in Table 6.

Table 6

Facility Operation	Oil Management	Tires	Miscellaneous Storage Piles
Fluids Management	Antifreeze	Fueling Areas	Facility Stormwater Runoff
Leak & Spill Prevention and Control	Lead-Acid Batteries	Salt Storage	Comments / Action Items

The City conducts catch basin cleaning on a section by section basis as needed in three block radius as to ensure the whole City is covered. The City starts from the lower lying areas (near brook) where more debris typically accumulates and works its way out. City representatives stated that records are maintained via job sheets which provide information such as where workers were on a specific date. The data from the job sheets are then used to extrapolate data such as number of catch basins cleaned, rebuilt when gathering data for the annual report. Data is not specifically tracked for the purposes of catch basin cleaning. City representatives stated that catch basin waste is disposed into a roll-off container at the transfer station and then taken to the Steuben County landfill. Records of the amount of waste disposed is not retained by the City.

The City conducts street sweeping activities in the business district three times a week and all roads in the City once a month or as often as they can get the sweepers out. The City sweeps the business district more often as it is frequently used and visited compared to residential areas. Parking lots maintained by the City are swept at the same time as the business district. Street sweeping activities are documented via daily work logs which are e-mailed to Mr. Tawil daily and maintained in a paper folder for tracking. Mr. Hendrickson stated that the

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sweepers average 25-30 yards of material a week with the material disposed of in a similar manner to the catch basin debris as it is ultimately transported to the Steuben County landfill.

As stated previously, the City stores salt at covered salt storage structure which is located to the southeast of the Water & Sewer, Sanitation, and Streets Department Garages. City representatives stated that the City tracks the volume of salt used by the number of loads and trips trucks take. The loader at the salt structure is responsible for keeping track of how many vehicles are loaded, how many trips are taken and then providing that information to the Commissioner of Public Works office. The City stated that once a snow or ice event is over and no storms are expected, the City sends out the sweepers to recover the salt. If it can be reused, the City will reuse it. If it is unable to be reused, it is sent to the transfer station to be disposed of.

City representatives stated that minor vehicle maintenance such as oil changes and spark plugs are done at the garage on Monhagen Avenue. Other work is contracted out and done off-site. Waste oil from oil changes is collected in 55-gallon drums and used as for heat for furnaces. Vehicle washing is conducted indoors at the vehicle storage barns on Monhagen Avenue and at the transfer station at the City wastewater treatment plant (WWTP) on Dolson Avenue where all wash water is directed to WWTP influent.

City representatives stated that the City provides daily pick-up of household garbage with waste taken to the transfer station and ultimately taken to the Steuben County landfill. At the time of the Audit, garbage trucks are stored at a City-owned location on Midland Avenue until the Monhagen Brook reconstruction project is complete. In addition to sanitation pick-up, the City offers a weekly yard waste collection and removal program for its residents, in addition to a drop-off location at the Recycling Center on Monhagen Avenue. The City also offers leaf clean-up events where residents can sweep leaves into the street during specific timeframes so City staff can sweep up leaves. The City composts leaves at Davidge Park and other large debris such as branches and other yard waste are taken to the WWTP to self-decompose. The City does not collect household hazardous waste (HHW) as it is conducted by Orange County. However, the City advertises HHW collection days via its website and its local cable channel. Documentation of the City's procedures is outlined in its SWMP Plan.

Addendum

Subsequent to the Audit, the City forwarded an updated SWMP plan which included revised procedures and policies on January 16, 2015. The following changes were observed:

- Inclusion of a flow diagram showing the delegation of responsibilities for the 6 MCMs within the City's MS4 program
- Public Education and Outreach MCM
 - Identification of POCs and GOCs
 - Clarification / expansion on target audiences
- Inclusion of Chapter 413 of City of Middletown Code (Prohibition of Illicit Discharges)
- Identification of DPW Commissioner of Public Works as SMO, pursuant to Local Law: Chapter 413, Section 2, Q.
- Inclusion of a Self Assessment Form
- Inclusion of a Third Party Certification Form
- Inclusion of Standard Operating Guidelines (SOGs) for:
 - Fuel Spill Containment and Cleanup
 - Vehicle Fueling

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- Vehicle Washing
- Vehicle Storage and Equipment Storage
- Brook Management
- Catch Basin Cleaning & Inspection
- Dry Weather Screening Inspection Checklist
 - Outfall Monitoring Observation Sheet
- Illicit Discharge Detection & Elimination (IDDE) Plan
- Street Sweeping
- Snow Removal & De-icing
- Turf Management practices and procedures
- BMP – Detention Pond Cleaning
- Identification of POCs at specific municipal facilities (e.g. garages, salt barn, WWTP, Parks facility)

Field Observations

During the Audit, EPA observed 12 sites outlined in Table 7.

Table 7

MUNICIPAL FACILITIES		
Parks Department Garage at Davidge Park 130 Lake Avenue	Midland Avenue Garage 55 Midland Avenue	Water & Sewer Department Garage Monhagen Avenue
Sanitation Department Garage Monhagen Avenue	Streets Department Garage Monhagen Avenue	Recycling Center Monhagen Avenue
Salt Storage Monhagen Avenue	Wastewater Treatment Plant 159 Dolson Avenue	
CONSTRUCTION SITES		
High Rose Ridge (NYR10V129) 112 - 126 High Barney Road	Sterling Parc (NYR10S575) 13-33 James P. Kelly Way	
POST-CONSTRUCTION STORMWATER MANAGEMENT PRACTICES		
Presidential Ridge Highland View Place	Buena Vista (near 8 Alex Court)	

EPA's field activity findings and observations related to the municipal facilities, the City's oversight of its construction sites, and post-construction stormwater management practices (SMPs) are summarized below in Table 8. Weather conditions on October 22 and 23, 2014 were chilly and overcast. The temperature was approximately 45 to 55 °F during the course of the field activities. Intermittent light rainfall was observed during field activities conducted on October 22 and 23, 2014. Photographs of the notable observations at the City facilities and post construction stormwater management practices are included in **Attachment B**.

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Table 8

Name	Notable Observations	Date of Observation
Municipal Facilities		
Overall observations of municipal garages	<ul style="list-style-type: none"> - Generally well maintained; all floor drains are plugged. - Observed clean floors in all garages; specifically noted DPW staff sweeping Sanitation Garage floors - Spill clean-up supplies readily available in garages (e.g. Speedi-Dry) - Construction activity occurring onsite in general area between Sanitation Department Garage and Streets Department Garage due to ongoing work at Monhagen Drainageway. 	10/22/2014
Parks Department Garage	<ul style="list-style-type: none"> - Vehicle washing occurs in front of building. Park staff stated that trucks are washed with soap infrequently. Mowers are rinsed with water after use to remove grass and leaves. Runoff from washing operations flows south onto grassy area and southwest to grassy swale. There is a culvert further that leads to the on-site park pond further down the slope. (RIMG0003.JPG) - Open stockpiles of gravel, clay, and dirt for ballfield use are stored on-site. Stockpiles are stored to west of Parks Department building and on impervious surface and upslope of culvert noted above. No evidence of runoff from stockpile reaching culvert observed. - Outdoor storage generally limited to equipment. Observed waste cooking oil stored in unlabeled 55-gallon drum and four 5-gallon plastic containers behind Parks Department Garage. Some containers were cracked and exposed to elements. (RIMG0006.JPG & RIMG0007.JPG) - Floor drain in east bay of garage; Foreman was unsure where floor drain discharge. (RIMG0001.JPG) - During walk around of site, EPA inspection team observed a car battery alongside the front of the Parks Department building with no containment or cover. (RIMG0004.JPG) When it was brought to the City's attention, it was immediately removed and put into the bed of a staff member's truck for disposal. - EPA inspection team did not observe catch basins in impervious area around garage. 	10/22/2014
Midland Avenue Garage	<ul style="list-style-type: none"> - Temporary storage for garbage trucks until Monhagen Brook project is completed. - Also used as storage for police impound vehicles and other City owned vehicles. - All vehicles are fully contained within building, no exposure to outdoors; no maintenance conducted at facility. 	10/22/2014
Water & Sewer Department Garage	<ul style="list-style-type: none"> - Vehicle fluids stored with secondary containment; spill kits readily available to staff. - Washing machine in last bay of garage (RIMG0011.JPG) that is used by Sewer Department staff if needed so clothes can be laundered on-site. No direct hook-up (RIMG0013.JPG) so hose would need to be run from washer outside to the front of garage, along the building and into 	10/22/2014

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	<p>the locker room to the sanitary hook-up. (RIMG0014.JPG) Due to the awkward hook-up, City staff stated that washing machine is rarely used. Subsequent to discussion in field, it was stated that washing machine would be moved from garage to locker room to facilitate easier use by staff and minimize potential for accidental discharge as garage is immediately adjacent to and upstream of Monhagen Brook.</p> <ul style="list-style-type: none"> - Plugged floor drains observed in garage. - Uncontained scrap metal pile adjacent to Water & Sewer Department Garage and upslope of Monhagen Brook. (RIMG0015.JPG & RIMG0016.JPG) City staff stated pile was a bit larger than it normally would be due to clean-out of a storage shed at the City's filter plant and that the pile would be gone by the following Monday. - EPA inspection team did not observe catch basins in impervious area around garage. 	
Sanitation Department Garage	<ul style="list-style-type: none"> - Roof gutter of building drains to inside of structure which is not unusual according to City staff. (RIMG0018.JPG) Building also has outside connection for gutter. (RIMG0021.JPG) City staff stated that gutter should be redirected to discharge outside of garage instead of inside. - Plugged floor drains observed in garage. - Unstabilized bank on west side of Monhagen Brook; EPA inspection team observed roof gutter on east side of building adjacent to Monhagen Brook. City staff stated that it was their belief the roof gutter was disconnected and not contributing flow to the immediate area which was observed to have erosion concerns. (RIMG0026.JPG) - Silt fencing (installed by contractor) was in place around the Monhagen Brook drainageway project immediately to the rear of the garage. - EPA inspection team did not observe catch basins in impervious area around garage. 	10/22/2014
Streets Department Garage	<ul style="list-style-type: none"> - Vehicle fuel storage in small room; most fluids stored in labeled 55-gal drums on raised pallets with absorbent pads on top and Speedi-Dry on floor. - Containers without containment included: vehicle wash soap, a release agent for cleaning shovels and odor control for garbage trucks. - EPA inspection team did not observe catch basins in impervious area around garage. 	10/22/2014
Recycling Center	<ul style="list-style-type: none"> - Open from 7 AM to 3 PM daily (Monday – Friday) - Roll-offs for single stream recycling; picked up by Middletown Carting - Residential leaf / grass drop-off center in designated area - Inactive / unconnected catch basin in northwest corner of lot (RIMG0030.JPG); City staff stated catch basin was unconnected as the City would be putting in a new culvert / catch basin system 	10/22/2014
Salt Storage	<ul style="list-style-type: none"> - Roofed structure with gutters that do not fully connect to ground (come half way down).(RIMG0031.JPG) - Monhagen Brook flows to the east of structure. 	10/22/2014

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Wastewater Treatment Plant	<ul style="list-style-type: none"> - Transfer station located at WWTP; vehicle washing occurs at transfer station. Staff hook up hose to fire hydrant and wash vehicles as needed. Water from vehicle washing operations flows to on-site catch basin located to north of transfer station. City staff stated catch basin discharges to WWTP influent. (RIMG0054.JPG – RIMG0055.JPG) - City utilizes WWTP transfer station as base for street sweeping disposal before it is hauled off-site to the Steuben County Landfill. 	
CONSTRUCTION SITES		
High Rose Ridge	<ul style="list-style-type: none"> - City staff noted several issues of concern as the EPA audit team walked job site (e.g. site discharge points, silt fencing, construction entrances, concrete truck cleanout, etc). Where issues of concern were noted, City inspector communicated them to site engineer who said action would be taken to address items of concern. - City staff forwarded a copy of site inspection report (dated 10/22/2014) to EPA on 1/16/2015 (See Appendix C) 	10/22/2014
Sterling Parc	<ul style="list-style-type: none"> - No active construction at time of site visit; site is working on items within Building 8. Last SWPPP inspection was in May 2014. - Site has not yet filed for NOT. 	10/22/2014
POST – CONSTRUCTION		
Presidential Ridge	<ul style="list-style-type: none"> - Retention pond to rear of house #39; excessive vegetation in pond. (RIMG0059.JPG) Connection (gutter/sump pump) from residential home to pond. No discharge observed at outfall pipe. - Retention pond in lot #81 (no house on lot); erosion observed at inlet catch basin (RIMG0062.JPG & RIMG0064.JPG) and outlet catch basin (RIMG0067.JPG) to outfall. Turbid discharge noted at outfall (RIMG0070.JPG). City staff stated that developer was responsible for operation and maintenance of post-construction SMP. During field discussion with City staff, City staff left a message for developer to address operation and maintenance concerns identified and stated they would inform EPA of outcome. 	10/23/2014
Buena Vista	<ul style="list-style-type: none"> - Retention pond adjacent to 8 Alex Court; no water observed at time of inspection. Pond appears to receive flow from footing drains and catch basin from street. City stated would look into design of pond and get back to EPA. - Retention pond adjacent to 12 Gabby Lane; City staff stated project was completed approximately around 2008. Inflow to pond and outflow to pond were clear. EPA inspection team observed mature trees in pond (RIMG0075.JPG & RIMG0076.JPG). 	10/23/2014

4. POTENTIAL VIOLATIONS

1. Part IV.A of the Permit states that all permittees under GP-0-08-002 must have prepared a Stormwater Management Program (“SWMP”) Plan documenting modifications to their SWMP. While the City provided EPA with a copy of its SWMP dated July 2014, it had not documented the modifications made to its SWMP since the original SWMP was drafted or revised over time. During the Audit, representatives for the City stated that plans could be compared to see what was changed. However, modifications were not documented as required by the Permit.

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2. Part VII.A.4.a.vi of the Permit requires all permittees to develop (for newly authorized MS4s), implement and enforce a program that contains requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, pursuant to the requirement of construction permit. During the audit, it was observed that the City of Middletown did not have specific language or requirements in its program requiring construction site operators to control waste such as discarded building materials, concrete truck washout, etc.
3. Part VII.A.4.a.vii and Part VII.A.5.a.v of the Permit requires all permittees to develop (for newly authorized MS4s), implement and enforce a program that describes procedures for SWPPP review for both construction and post-construction minimum control measures. While the City of Middletown provided a detailed verbal summary of its SWPPP review procedures during the Audit, the City did not have its SWPPP review procedures documented in writing as required by the Permit.
4. Part VII.A.4.a.ix of the Permit requires all permittees to develop (for newly authorized MS4s), implement and enforce a program that describes procedures for site inspections and enforcement of erosion and sediment control measures, including steps to identify priority sites for inspection and enforcement and Notice of Termination (“NOT”) procedures for signing the MS4 acceptance statement on the NOT. At the time of the Audit, while the City had a program that described procedures for site inspections and enforcement of erosion and sediment control measures in its SWMP Plan, the SWMP Plan did not describe the City’s NOT procedures. The EPA Audit Team did note that while the City of Middletown provided a detailed verbal summary of its NOT procedures during the Audit, it was not documented in writing as required by the Permit.
5. Part VII.A.4.xi of the Permit requires all permittees to develop (for newly authorized MS4s), implement and enforce a program that ensures that construction site operators have received erosion and sediment control training before they do work within the covered entity’s jurisdiction and maintain records of that training. At the time of the Audit, City representatives stated that they believed that the MS4 SWPPP Acceptance form was the contractor certification that they had taken the training and it was adequate for the City’s needs. In addition, City staff stated that they did not ask for certifications, but assumed that those would likely be retained in the job site trailers.
6. Part VII.A.5.a.vi of the Permit requires all permittees to develop (for newly authorized MS4s), implement and enforce a program that maintains an inventory of post-construction stormwater management practices within the MS4’s jurisdiction. At a minimum, it must include practices discharging to the small MS4 that have been installed since March 10, 2003, all practices owned by the small MS4, and those practices found to cause or contribute to water quality standard violations. The inventory shall also include at a minimum: location of practice (street address or coordinates); type of practice; maintenance needed per the NYS Stormwater Design Management Manual, SWPPP, or other provided documentation; and dates and type of maintenance performed. Subsequent to the Audit, the City forwarded inventories of post-construction management practices within the City. Some of the information is cross-referenced with the City’s construction stormwater inventory list (e.g. dates of inspections). While the inventories include some of the information required by the Permit, they do not include all of the required information.
7. Part VII.A.6.a.ii of the Permit requires that all permittees must at a minimum frequency of once every three years, perform a self-assessment of all municipal operations addressed by the SWMP to: determine

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the sources of pollutants potentially generated by the permittee's operations and facilities and identify the municipal operations and facilities that will be addressed by the pollution prevention and good housekeeping program, if it is not done already. At the time of the Audit, the City stated that City staff frequently do self assessments, but had not formally documented those activities. Subsequent to the Audit, the City forwarded a copy of a self assessment reporting form it had developed for use. However, copies of completed self assessment forms was not forwarded.

8. Part VII.A.6.a.vi of the Permit requires that all permittees develop (for newly authorized MS4s) and implement a pollution prevention / good housekeeping program for municipal operations and facilities that includes an employee pollution prevention and good housekeeping training program and ensures that staff receive and utilize training. According to City representatives, there is no formal training program related to employee pollution prevention and good housekeeping for City employees whose responsibilities include stormwater management. While the City documents any and all training that is related to stormwater or water, in general, there is no formal training program to ensure that employees are receiving and utilizing the training.

5. AREAS OF CONCERN

1. During the Audit, it was noted that while the City documents its catch basin cleaning and street sweeping activities via job sheets and daily work logs, it does not specifically track the number of catch basins cleaned, or rebuilt, or the amount of debris collected and hauled off. However, subsequent to the Audit, the City forwarded an updated SWMP Plan on January 16, 2015 which included Standard Operating Guidelines for "Catch Basin Cleaning" and "Street Sweeping." Both guidelines outlined what was required to be retained as far as documentation.
2. The City retains a comprehensive tracking list documenting various training taken or requested by Department of Public Works staff. However, it is not readily clear from the tracking list if the training is stormwater specific or if courses were actually taken once it was requested by staff. Where required by the Permit, it is recommended that the City further specify in its SWMP Plan how it will ensure that appropriate staff are trained, how training will be delivered and documented.
3. During the Audit, the EPA Audit team observed outdoor storage of waste cooking oil stored in cracked and broken 5-gallon plastic storage containers behind the Parks Department Garage. While there are no catch basins or nearby streams in the area, preventing open exposure of oils and grease is something that the City should consider incorporating into its pollution prevention and good housekeeping program.
4. During the Audit, the City informed the EPA Audit team that it would move the washer from the Water & Sewer Department Garage bay to the locker room to minimize the potential for accidental discharge. Upon completion of move, the City stated it would inform EPA of status.
5. During the Audit, the EPA Audit team observed several operation and maintenance areas of concern at the retention pond adjacent to lot #81 (e.g. erosion around inlet and outlet catch basins and turbid discharge at outfall) at Presidential Ridge.

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Attachment A

The City provided EPA Region 2 with copies of the following materials prior to the audit:

1. Stormwater Management Program Plan dated July 2014
2. Notice of Intent – 3/3/2003
3. NYSDEC Notice of Intent Acknowledgement – 3/28/2003
4. Copies of NOIs for eight (8) construction sites within the City
5. Flow Diagram of delegation responsibilities for 6 MCMs
6. List of Adjacent MS4s
7. Maps
 - a. Adjacent MS4 Communities Map
 - b. City MS4 Outfall Map
 - c. City Storm Sewershed Boundaries Map
 - d. City Owned Facilities Map
8. PWL Data Sheet for Monhagen Brook and tribs
9. List of current construction sites and associated inspection reports and enforcement actions
 - a. Tabular listing of inspection dates for specific construction sites
 - b. Tabular listing of violations at specific construction sites with date, issue, and resolution
10. Summary of all training provided to staff
 - a. Tabular listing of all training provided to staff
11. Ordinances
 - a. City's ordinance prohibiting illicit discharges (Chapter 389); adopted 1/12/1953 & 6/8/1953
 - b. City's ordinance requiring SWPPPs (Chapter 414); adopted 11/27/2007
12. Illicit discharge elimination reports (7 total)
13. DPW Memorandum describing citywide clean-up operations activities dated 11/23/2014
14. City of Middletown SOP for Fuel Spills – Containment and Cleanup

The City provided EPA Region 2 with copies of the following materials during and following the audit:

1. Copies of SWPPP review correspondence for two construction sites (one active and one pending)
2. Updated Post-construction BMP inventory since 2003
3. Updated list of MS4 Construction sites last updated 1/22/2015
4. Sample copies of SWPPP inspection reports for two construction sites (including one visited by EPA during the Audit)
5. Updated Stormwater Management Program Plan
6. City's ordinance prohibiting illicit discharges (Chapter 413, Local Law #4) adopted on 12/2/2014
 - a. Copy of local law with date of adoption
 - b. Copy of notice of public hearing newspaper notice on 12/8/2014
 - c. Local Law #4 (Chapter 413) certification from Richard J. Guertin, Corporation Counsel for City of Middletown, dated 1/26/2015
7. Copy of a previously unprovided illicit discharge elimination report
8. Updated copy of City's training log with seminar information / abstracts included and a copy of the Orange County SWCD seminar titled "Middletown's Municipal Separate Storm Sewer (MS4)"

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9. Public Education Outreach / Public Involvement Log
 - a. Tabular listing of brochures made available and notifications made by City to residents, original date / date of event, last ordered (if applicable), and where displayed for public
10. Updated 2013 MS4 Annual Report dated 11/11/2014
11. Signed copy of Contracted Entity Certification Statement from Clark Patterson Lee dated 12/2/2014
12. Local Law #3 (Chapter 414) certification from Alex Smith, Esq., Assistant Corporation Counsel for City of Middletown, dated 1/26/2015

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Attachment B

Photographs

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RIMG0001.JPG – Floor drain near tractor mower in Parks Department Garage at Davidge Park.



RIMG0003.JPG – Vehicle washing area; runoff from washing operations flows to south.

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RIMG0004.JPG – Uncovered car battery stored outside; battery was later put into employee truck bed for disposal.



RIMG0006.JPG – Cooking oil storage in miscellaneous containers (55 gallon drum and 5 gal plastic containers) on north side of facility.

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RIMG0007.JPG – Close-up of broken / cracked cooking oil storage container.



RIMG0011.JPG – Unconnected washing machine in Water & Sewer Department Garage.

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RIMG0013.JPG – Close-up of unconnected washing machine in Water & Sewer Department Garage.



RIMG0014.JPG – Sanitary connection point for washing machine in locker room at Water & Sewer Department Garage.

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RIMG0015.JPG – Metal scrap pile located to south of garage and adjacent to Monhagen Brook.



RIMG0016.JPG – Close-up of scrap metal storage pile noted in RIMG0015.JPG.

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RIMG0018.JPG – Floor drain in center of photo is plugged; gutter inside of Sanitation Garage drains to plugged floor drain.



RIMG0021.JPG – Outside connection point for gutter at Sanitation Garage.

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RIMG0026.JPG – Roof gutter on Sanitation garage that City staff believed was disconnected and not contributing flow; note erosion in foreground. Monhagen Brook drainageway project is in immediate foreground. Silt fencing in left of photo was installed by contractor.



RIMG0030.JPG – Inactive / disconnected catch basin in corner of Recycling Center.

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RIMG0031.JPG – Roofed structure with gutters that do not fully connect to ground; note salt is fully contained within structure.



RIMG0054.JPG – Transfer station drop-off point where vehicle washing occurs at City WWTP; catch basin located to north of transfer station. Catch basin discharges to WWTP.

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RIMG0055.JPG – Hydrant used for hook-up for vehicle washing activities; located adjacent to transfer station.



RIMG0059.JPG – Retention pond located behind single family home at Presidential Ridge; note overgrown conditions (view looking southeast).

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RIMG0062.JPG – Erosion around perimeter of catch basin inlet at second retention pond (lot #81) at Presidential Ridge.



RIMG0064.JPG – Close-up of erosion noted in RIMG0062.JPG

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RIMG0067.JPG – Erosion around outlet point from second retention pond at Presidential Ridge (lot #81) to outfall



RIMG0070.JPG – Outfall from second retention pond (lot #81); note turbidity

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RIMG0075.JPG –Retention pond observed at Buena Vista (adjacent to 12 Gabby Lane); note overgrown vegetation and mature trees observed.



RIMG0076.JPG – Retention pond observed in development (adjacent to 12 Gabby Lane); note overgrown vegetation and mature trees observed.

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Appendices

**City of Middletown, NY**
Stormwater Management Program
Contracted Entity Certification

I certify, as a representative of Clark Patterson Lee, that I understand and agree to comply with the terms and conditions of the City of Middletown, New York Stormwater Management Program and agree to implement any corrective actions identified by the City of Middletown, New York or a representative. I also understand that the City of Middletown, New York must comply with the terms and conditions of the New York State Pollution Discharge Elimination System ("SPDES") general permit for stormwater discharges from the Municipal Separate Storm Sewer Systems (MS4's) and that it is unlawful for any person to cause or contribute to a violation of water quality standards.

Name: Geary F. Chumard, PE, LS; PE Lic. No. 50957Title: Principal-AssociateSignature: Name of Firm: Clark Patterson LeeAddress of Firm: 103 Executive Dr., Suite 202, New Windsor, NY 12553Telephone No. of Firm: 800-274-9000Date of this Agreement: 12/2/2014Term of this Agreement: 12 MonthsSignature of Municipal Department Head: 

Services to be provided by Clark Patterson Lee

1. Assistance to the City of Middletown in preparation and updating the Stormwater Management Plan Report (SWMP)
2. Assistance to the City of Middletown in the preparation of the MS4 Annual Report.
3. Assistance to the City in the preparation of Stormwater Pollution Prevention Plans (SWPPP) In conjunction with projects undertaken by Clark Patterson Lee for the City of Middletown
4. Assistance to the City of Middletown in the review of Stormwater Pollution Prevention Plans (SWPPP) prepared by Planning Board Applicants.

Appendix B

Arvizu, Christy

From: Jacob Tawil <jtawil14@yahoo.com>
Sent: Wednesday, November 26, 2014 7:32 AM
To: Arvizu, Christy
Cc: Gef Chumard; Kate Zahorchak(DPW-KBS); Mike Moser; Chris Gross; Walter Welch; Richard Guertin
Subject: Re: Illicit Discharge Ordinance

Hi Christy,
My figure hit "send" prior completing the email below.. Sorry

So, we will be sending you all the attorney's certifications and the new local law as soon as the process is completed...

Again, thank you for you advise, be safe today, and have a great thanksgiving.

Jacob

Sent from my iPhone

On Nov 26, 2014, at 7:24 AM, Jacob Tawil <jtawil14@yahoo.com> wrote:

Good morning Christy,
To update you since we last communicated regarding the issue, we have introduced the referenced local law to the City Common Council during last Tuesday's meeting. Law is required to be with them for 10 days prior to being voted on. Law is expected to be adopted during next Council meeting scheduled for 12/2/2014.

Sent from my iPhone

On Nov 26, 2014, at 7:13 AM, Arvizu, Christy <Arvizu.Christy@epa.gov> wrote:

Good morning, Jacob –

Thank you again for forwarding the below language.

The NYSDEC permit (Part VII.A.3.f) states that all covered entities must “prohibit, through a law, ordinance, or other regulatory mechanism, illicit discharges into the small MS4...The mechanism must be certified by the attorney representing the small MS4 as being equivalent to the State’s model illicit discharge local law. Laws adopted during the GP-02-02 permit cycle must also be attorney-certified as effectively assuring implementation of the State’s model IDDE law.”

Since the City is utilizing its city sewer ordinance to enforce against illicit discharges, has the City’s Attorney certified that it is equivalent to NYSDEC’s model illicit discharge local law as required by the Permit? If so, would you forward me that documentation or certification? For your convenience, I have attached the model local law.

Appendix B

Thank you and I wish you a Happy (and safe) Thanksgiving holiday!

Christy

From: Jacob Tawil [<mailto:jtawil14@yahoo.com>]

Sent: Friday, October 24, 2014 8:25 AM

To: Arvizu, Christy

Cc: Gef Chumard; Kate Zahorchak(DPW-KBS); Mike Moser; Chris Gross; Walter Welch

Subject: Illicit Discharge Ordinance

Good morning Christy,

Following up on your question yesterday regarding city ordinance and prohibiting of illicit discharges into stormwater system, tributaries, streams...

The following prevision of city sewer ordinance is what we have used to enforce prohibiting illicit discharges into our Stormsewer System, streams, tributaries....

Please See definition of "natural outlet" in same chapter.

§ 389-3. Discharge of polluted waters to natural outlet.

It shall be unlawful to discharge to any natural outlet within the City of Middletown or in any area under the jurisdiction of said City any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

I Will check with our attorneys to see if they use other sections of city code for ID.

Prompted by your Question we started looking for ID Dec model law they we could use or adopt, but it's our believe that we have enough strength in our current ordinance to prohibit ID, and prosecute the offenders.

Please feel free to call if you have any questions or suggestion to help strengthen our ID ordinance.

Thank you
Jacob

Sent from my iPhone

<Model Law IDDE.DOC>